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MONTANA LEGISLATIVE HISTORY

Chapter 476 ~~19~~ 2095

Bill H B351 S _____ Original bill & history ___C

H. Committee on Agriculture

Hearing Date(s) h 3/04 ___C

v 3/17 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Agriculture

Hearing Date(s) h 1/27 ___C

v 2/02 ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Montana Legislative Branch

Montana Legislature

Detailed Bill Information

2005 Session

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Bill Draft Number: LC1279 Current Bill Text
Bill Type - Number: HB 351
Short Title: Require explanation of improvement arbitration
Primary Sponsor: Edward B Butcher

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 58

Print Friendly

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/29/2005			
(H) Signed by Governor	04/28/2005			
(H) Transmitted to Governor	04/19/2005			
(S) Signed by President	04/19/2005			
(H) Signed by Speaker	04/18/2005			
(C) Sent to Printing	04/14/2005			
(H) Returned from Enrolling	04/14/2005			
(H) Sent to Enrolling	04/12/2005			
(H) 3rd Reading Passed as Amended by Senate	04/12/2005	81	16	
(H) Scheduled for 3rd Reading	04/12/2005			
(H) 2nd Reading Senate Amendments Concurred	04/11/2005	89	11	
(H) Scheduled for 2nd Reading	04/11/2005			
(S) Returned to House with Amendments	03/22/2005			
(S) 3rd Reading Concurred	03/22/2005	47	1	
(S) Scheduled for 3rd Reading	03/22/2005			
(S) 2nd Reading Concurred on Voice Vote	03/21/2005	50	0	
(S) Scheduled for 2nd Reading	03/21/2005			

(S) Scheduled for 2nd Reading	03/19/2005			
(C) Sent to Printing	03/17/2005			
(S) Committee Report--Bill Concurred as Amended	03/17/2005			(S) Agriculture, Livestock and Irrigation
(S) Committee Executive Action--Bill Concurred as Amended	03/17/2005	6	2	(S) Agriculture, Livestock and Irrigation
(S) Hearing	03/04/2005			(S) Agriculture, Livestock and Irrigation
(S) Referred to Committee	02/22/2005			(S) Agriculture, Livestock and Irrigation
(S) First Reading	02/22/2005			
(H) Transmitted to Senate	02/14/2005			
(H) 3rd Reading Passed	02/14/2005	53	45	
(H) Scheduled for 3rd Reading	02/14/2005			
(H) 2nd Reading Passed	02/12/2005	55	44	
(H) Scheduled for 2nd Reading	02/12/2005			
(H) 2nd Reading Pass Consideration	02/11/2005			
(H) Scheduled for 2nd Reading	02/11/2005			
(H) 2nd Reading Pass Consideration	02/10/2005			
(H) Scheduled for 2nd Reading	02/10/2005			
(C) Sent to Printing	02/02/2005			
(H) Committee Report--Bill Passed as Amended	02/02/2005			(H) Agriculture
(H) Committee Executive Action--Bill Passed as Amended	02/02/2005	12	8	(H) Agriculture
(H) Hearing	01/27/2005			(H) Agriculture
(H) Hearing Canceled	01/20/2005			(H) Agriculture
(C) Introduced Bill Text Available Electronically	01/19/2005			
(H) Referred to Committee	01/19/2005			(H) Agriculture
(H) First Reading	01/19/2005			
(H) Introduced	01/19/2005			
(C) Draft Delivered to Requester	01/17/2005			
(C) Draft Ready for Delivery	01/15/2005			
(C) Draft in Assembly/Executive Director Review	01/14/2005			
(C) Draft in Final Drafter Review	01/13/2005			
(C) Bill Draft Text Available Electronically	01/13/2005			
(C) Draft in Input/Proofing	01/13/2005			
(C) Draft to Drafter - Edit Review [CMD]	01/12/2005			

(C) Draft in Edit	01/12/2005			
(C) Draft in Legal Review	01/12/2005			
(C) Draft Taken Off Hold	01/12/2005			
(C) Draft On Hold	12/27/2004			
(C) Draft to Requester for Review	12/09/2004			
(C) Draft Taken Off Hold	12/09/2004			
(C) Draft On Hold	12/02/2004			
(C) Fiscal Note Needed	11/26/2004			
(C) Draft Request Received	11/26/2004			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Butcher	Edward	B
Drafter	Kolman	Joe	
Primary Sponsor	Butcher	Edward	B

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Public Contracts (see also: Contracts)		Simple	PCON
State Lands		Simple	STLA

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: N
Session Law Ch. Number: 476
DEADLINE
Category: General Bills

Transmittal Date: 03/01/2005
Return (with 2nd house amendments) Date: 04/06/2005

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	28-APR-05	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

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Look Up Bill Information	Committee and Hearing Information
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Senate Agenda(s)	Senate Journals	Daily Senate Floor Actions
Legislator Information	Reports

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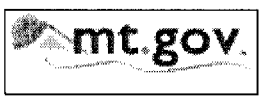

HOUSE BILL NO. 351

INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO EXPLAIN THE REQUIREMENTS OF FIXING VALUES OF IMPROVEMENTS BY ARBITRATION; CHANGING COURT VENUE FOR CONTESTING VALUES; AMENDING SECTIONS 77-6-302 AND 77-6-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-6-302, MCA, is amended to read:

"77-6-302. Compensation for improvements -- actual costs. (1) When another person becomes the lessee of the lands, the person shall pay to the former lessee the reasonable value of the improvements. The reasonable value may not be less than the full market value of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value must be ascertained and fixed as provided in 77-6-306. The former lessee shall initiate this process within 60 days of notification from the department that there is a new lessee. The department notification must include an explanation of the requirements of 77-6-306. Failure to initiate the process within this time period results in all improvements becoming the property of the state.

(3) Upon the termination of a lease, the department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease."

Section 2. Section 77-6-306, MCA, is amended to read:

"77-6-306. Arbitrators to fix value of improvements. (1) If the owner of any

improvements on state lands of the type authorized by law at the time they were placed on state lands desires to sell these improvements to the new lessee and they are unable to agree on the value of the improvements pursuant to 77-6-302, the value must be ascertained and fixed by three arbitrators, one of whom is appointed by the owner of the improvements, one by the new lessee, and the third by the two appointed arbitrators. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the director of the department, the director may appoint an arbitrator for that party. An arbitrator appointed by the director has the same duties and powers as if appointed by one of the parties. The value of the improvements must be ascertained and fixed pursuant to 77-6-302.

(2) The reasonable compensation that the arbitrators may fix for their services must be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements ascertained and fixed is binding on both parties. If either party is dissatisfied with the valuation, the party may within 10 days appeal from the decision to the department. The department shall examine the records pertaining to the costs of the improvements, and except as provided in subsection (4), its decision is final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in the proportion as, in its judgment, justice may demand.

(4) If either party is dissatisfied with the valuation fixed by the department, the party may within 30 days after receipt of the department's decision petition the district court in the county in which the majority of the state land is located ~~or the district court of Lewis and Clark County for judicial review of the decision~~."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER,** on January 27, 2005 at 3:15 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edward B. Butcher, Chairman (R)
Rep. Carol Lambert, Vice Chairman (R)
Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Bob Bergren (D)
Rep. Gary Branae (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Jim Keane (D)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Dan Villa (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)

Members Excused: Rep. Kevin T. Furey (D)
Rep. Llew Jones (R)
Rep. Brady Wiseman (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 350, HB 351, 1/19/2005
Executive Action: HB 266, HB 274, HB 352

CHAIRMAN BUTCHER opened the meeting.

Motion/Vote: REP. MALCOLM moved that COMMITTEE BILL on Bovine Spongiform Encephalopathy (BSE) BE CANCELLED. Motion carried unanimously by Voice Vote. REPS. FUREY and WISEMAN voted by proxy.

VICE CHAIRMAN LAMBERT took over for CHAIRMAN BUTCHER, as he was the sponsor for the next two bills.

HEARING ON HB 351

SPONSOR: REP. EDWARD BUTCHER, HD 29, WINIFRED
{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.2}

Opening Statement by Sponsor:

REP. EDWARD BUTCHER (R), HD 29, opened the hearing on **HB 351,** which would require the Department of Natural Resources and Conservation (DNRC) to explain the requirements for fixing the values of improvement arbitration and give stability to current requirements. He explained that the primary role of school trust lands is to provide revenue for Montana schools. There are 5,500 lessees of state land and most are ten year leases. In the past, preference has been given to current lessees, they could also go before the State Land Board after a year and appeal, if the bid they had to match for that property was excessive. The State Land Board would review and make a ruling. The issue is that many of these lessees have made improvements on the land they are leasing. He noted that this bill requires that the DNRC must notify and explain the requirements to receive compensation from the new lessee if the prior lessee loses his bid. If the former lessee is unable to produce records establishing the value of the improvements, current rules require initiation of the process within 60 days of losing the lease, or the improvements become the property of the state. He urged DO PASS on HB 351.

Proponents' Testimony:

Patrick McNulty, Rancher and President, Judith Basin County Farm Bureau, said that only a small minority of ranchers in their county do not have a state lease. He noted a recent challenge to current rule, the Broadbent challenge. He would like the language, "...for judicial review of the decision" on Page 2, Line 16 left in the original language. He felt that with judicial review, they cannot substitute the court's judgement for the agency's or the landlord's judgement.

Dave McClure, President Montana Farm Bureau, said he supports Mr. McNulty's testimony and gives full support to the bill.

Dean Newman, Rancher, Fergus County, expressed support for the bill and asked for an amendment. The current bill does not allow the lessee to know the name of the person bidding against him, and can only find out who it is by paying 100 percent of the lease. The challenger is required to pay only 20 percent. He also stated that he felt that a convicted felon should not be able to bid on state land leases.

Jay Bodner, Montana Stockgrowers Association and the Montana Association of State Grazing Districts, said they got input from many of their members. The preference right was reinstated through administrative rules. Other concerns involved what to do about improvements if the state lease is lost. He said that many people were not aware of what was available to them, and HB 351 would provide some education on what they could do. He advocated having the court decision be made in the county where the majority of the lands is located.

Trevis Butcher, Rancher from Winifred, voiced his support. The question over improvements needs to be addressed, because currently the lack of stability on leases provides no incentive to make improvements on the land.

Margaret Cummings, Rancher from Lewistown, stated her support and said this problem needs to be addressed.

Bill Routh, Rancher from Coffee Creek, noted his support and said every building he owns is on state land. If they were to lose their lease, they would lose their house and barns.

VICE CHAIRMAN LAMBERT voiced her support of HB 351.

Opponents' Testimony: None

Informational Testimony:

REP. SMALL-EASTMAN said that when a person bids on state land, there are numerous deductions: $2.92 for weed control, $1.85 for fencing, $1.00 water development, $.56 for non-use, $1.57 for access and $.06 for fire suppression. A total of $7.96. The bidder on land at $11.40 would have a deduction of $7.96. The length of lease adds $.56, preference rights adds $1.14; a total of $1.70 added. What they are actually paying to the state is $5.14 for state land. There is a multiplier with the $5.14, which is based on 1993 beef price. Taking that, times the deductions and additions, comes to $7.54. She stated that if

anyone is going to bid on state land, they should bid at fair market value.

VICE CHAIRMAN LAMBERT noted that this testimony should probably have been given as an opponent, but **REP. SMALL-EASTMAN** stated that she felt it was informational.
{Tape: 1; Side: A; Approx. Time Counter: 4.2 - 28}

Questions from Committee Members and Responses:

REP. VILLA referred to Page two, Line 16 and noted they were talking about amending back into the bill, "for judicial review of the decision," and had discussed eliminating the part about the District Court of Lewis and Clark County. He asked why this would be amended out, based only on location; since the State Land Board is centered out of that district. **REP. BUTCHER** said that this section is dealing with an arbitration situation, and the dispute is between the current lessee and the prior lessee over improvements. It makes more sense to have this in a court where both individuals reside.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.5}

REP. PETERSON asked for consideration to change the sentence to read: ".... to petition the district court in the county in which the majority of the state land is located for judicial review of the decision." He said that using that wording would clarify the intent of the law. **REP. BUTCHER** said that language is going back into the bill.

REP. BRANAE asked if a lot of cases had been tried in Lewis and Clark County that should not have been. **REP. BUTCHER** said that the Broadbent case was a good example. It is better to have decisions made within areas where the court knows what is going on. He said that other courts are just as qualified as those in Lewis and Clark County.

Closing by Sponsor:

REP. BUTCHER thanked the committee for a good Hearing.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.5}

HEARING ON HB 350

SPONSOR: REP. EDWARD BUTCHER, HD 29, WINIFRED

Opening Statement by Sponsor:

REP. EDWARD BUTCHER (R), HD 29, opened the hearing on **HB 350,** a bill to increase bond and deposit amounts for State Land Leases

HOUSE OF REPRESENTATIVES
Roll Call
AGRICULTURE COMMITTEE

DATE 1/27/05

NAME	PRESENT	ABSENT	EXCUSED
REP. ED BUTCHER, CHAIR	✓		
REP. CAROL LAMBERT, VICE CHAIR	✓		
REP. JONATHAN WINDY BOY , VICE CHAIR	✓		
REP. JOAN ANDERSEN	✓		
REP. BOB BERGREN	✓		
REP. GARY BRANAE	✓		
REP. KEVIN FUREY			✓
REP. WANDA GRINDE	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES			✓
REP. JIM KEANE	✓		
REP. BRUCE MALCOLM	✓		
REP. JIM PETERSON	✓		
REP. DIANE RICE	✓		
REP. JACK ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. DAN VILLA	✓		
REP. KARL WAITSCHIES	✓		
REP. JEANNE WINDHAM	✓		
REP. BRADY WISEMAN			✓

:s/AgricRollCall.2005

Montana House of Representatives
Visitors Register

AGRICULTURE COMMITTEE **Date** 1/27/05

Bill No. HB 351 **Sponsor(s)**

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
Jay Bodner	MT Stockgrowers MT Assoc. of State Grazing Districts	✓		
Dave McClure	Mont Farm Bureau	✓		
Patrick McNulty	Judith Basin County Farm Bureau	✓		
Tim M Bertsche	Winifred Area Ranches/Businesses	✓		
Margaret Cummings	Lewistown area Lawyer	✓		
Bill Pratt	Coffee Creek	✓		
Ann Cummings Roth	Coffee Creek	✓		
Carol Lambert	HD 39	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

/s/AgricVisitorReg.sample2003

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN EDWARD B. BUTCHER**, on February 1, 2005 at 3:05 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:
Rep. Edward B. Butcher, Chairman (R)
Rep. Jonathan Windy Boy, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Bob Bergren (D)
Rep. Gary Branae (D)
Rep. Wanda Grinde (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Diane Rice (R)
Rep. John (Jack) W. Ross (R)
Rep. Veronica Small-Eastman (D)
Rep. Karl Waitschies (R)
Rep. Jeanne Windham (D)
Rep. Brady Wiseman (D)

Members Excused: Rep. Carol Lambert, Vice Chairman (R)
Rep. Kevin T. Furey (D)
Rep. Jim Keane (D)
Rep. Dan Villa (D)

Members Absent: None.

Staff Present: Linda Keim, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 399, HB 440, 1/27/2005
Executive Action: HB 350, HB 351, HB 352

REP. VILLA said that he agreed with REP. PETERSON.

REP. KEANE stated that he would like to leave Section 2 in.

Vote: Motion on AMENDMENT 35003 carried 19-1 by voice vote with REP. HEINERT voting no. REP. FUREY voted by proxy.

Vote: Motion on HB 350 AS AMENDED carried unanimously by roll call vote. REP. FUREY voted by proxy.

EXECUTIVE ACTION ON HB 351

Motion: REP. BUTCHER moved that HB 351 DO PASS.

Motion: REP. BUTCHER moved that AMENDMENT 035101 DO PASS.

Discussion:

Ms. Evans explained the amendment. **REP. BUTCHER** explained the rationale behind it.

Vote: Motion on AMENDMENT 35101 carried unanimously by voice vote. REP. FUREY voted by proxy.

Motion: REP. BUTCHER moved that HB 351 DO PASS AS AMENDED.
{Tape: 2; Side: B; Approx. Time Counter: 10.9 - 22}

Discussion:

REP. FUREY asked why Lewis and Clark County was being struck from the statute. **REP. BUTCHER** said that it was traditional in many statutes, and came from territorial days, to have everything default to Lewis and Clark County.

REP. WINDHAM asked for further explanation from Ms. Evans. **Ms. Evans** explained that it was not necessarily related to state land, and may have been done because it is a state agency making the decision, and the agency is located here. She said that it is common in statute.

REP. WAITSCHIES noted that the issues are water wells, fences, and stock dams. He said that for those types of adjudication, local would be better than having to go to Helena for each issue.

REP. JONES commented that his state leases are not as well-developed as his private property, because someone may bid against him and take the lease away.

REP. KEANE stated that there is no fiscal note to pay for sending state personnel all around the state to defend these actions. ***{Tape: 2; Side: B; Approx. Time Counter: 22 - 28.7}***

Kevin Chappell, Agriculture and Grazing Management Bureau Chief, Department of Natural Resources and Conservation (DNRC), stated that they have very few cases that require litigation. He said that the DNRC does not anticipate any fiscal impact from moving Lewis and Clark County as a place of venue.

REP. KEANE asked why they have the bill. **Mr. Chappell** said that REP. BUTCHER wants to have the hearing take place in the county where the land is located. The county is more familiar with the property, and they are more likely to have a district judge who has some experience and exposure to agriculture leases and improvements, and what their value might be. He wants to have something in place to avoid problems down the line. ***{Tape: 3; Side: A; Approx. Time Counter: 0 - 3}***

REP. SMALL-EASTMAN asked whether the deductions were taken into account when someone gets the bid. **Mr. Chappell** stated that this refers to the Land Board's decision on how they would set the minimum rate for a lease with no competitive bids. This is a bidding situation, and those reductions no longer apply.

REP. BRANAE voiced concern about the word "or" on Page 2, Line 16 of the bill. **REP. BUTCHER** discussed avoiding an urban court on an agriculture issue. **REP. WINDHAM** said that a motion for change-of-venue is not automatically approved.

REP. VILLA said that he can not support the bill as it is.

REP. MALCOLM stated that the last legislature allowed movement from Lewis and Clark County to where people were more familiar with the issue.

REP. WAITSCHIES said that it would be 550 miles for people in his jurisdiction to come to Helena. He felt that it would be better to have this handled in district court.

Vote: Motion on HB 351 AS AMENDED carried 12-8 by roll call vote. REPS. BERGREN. BRANAE, FUREY, KEANE, SMALL-EASTMAN, VILLA, WINDY BOY, and WINDHAM voted no. REP. FUREY voted by proxy. ***{Tape: 3; Side: A; Approx. Time Counter: 3 - 13}***

ADJOURNMENT

Adjournment: 5:07 P.M.

REP. EDWARD B. BUTCHER, Chairman

LINDA KEIM, Secretary

EB/lk

Additional Exhibits:

EXHIBIT(agh25aad0.PDF)

HOUSE OF REPRESENTATIVES
Roll Call
AGRICULTURE COMMITTEE

DATE 2/1/05

NAME	PRESENT	ABSENT	EXCUSED
REP. ED BUTCHER, CHAIR	✓		
REP. CAROL LAMBERT, VICE CHAIR			✓
REP. JONATHAN WINDY BOY , VICE CHAIR	✓		
REP. JOAN ANDERSEN	✓		
REP. BOB BERGREN	✓		
REP. GARY BRANAE	✓		
REP. KEVIN FUREY			✓
REP. WANDA GRINDE	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. JIM KEANE			✓
REP. BRUCE MALCOLM	✓		
REP. JIM PETERSON	✓		
REP. DIANE RICE	✓		
REP. JACK ROSS	✓		
REP. VERONICA SMALL-EASTMAN	✓		
REP. DAN VILLA			✓
REP. KARL WAITSCHIES	✓		
REP. JEANNE WINDHAM	✓		
REP. BRADY WISEMAN	✓		

:s/AgricRollCall.2005

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Agriculture** recommend that **House Bill 351** (first reading copy -- white) **do pass as amended.**

Signed: Edward B. Butcher
Representative Edward B. Butcher, Chair

And, that such amendments read:

1. Page 2, line 16.
Following: "~~decision~~"
Insert: "for judicial review of the decision"

- END -

Committee Vote:
Yes 12, No 8.

260912SC.hkh

HOUSE OF REPRESENTATIVES
Roll Call Vote
AGRICULTURE COMMITTEE

DATE 2/1/05 BILL NO MOTION NO. 4
MOTION: HB 351 W/ amdtmt -035101
approved 12-8

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. CAROL LAMBERT, VICE CHAIR	✓		✓
REP. JONATHAN WINDY BOY, VICE CHAIR		✓	
REP. JOAN ANDERSEN	✓		
REP. BOB BERGEN		✓	✓
REP. GARY BRANAE		✓	
REP. KEVIN FUREY		✓	✓
REP. WANDA GRINDE	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. JIM KEANE		✓	
REP. BRUCE MALCOLM	✓		
REP. JIM PETERSON	✓		✓
REP. DIANE RICE	✓		
REP. JACK ROSS	✓		
REP. VERONICA SMALL-EASTMAN		✓	
REP. DAN VILLA		✓	
REP. KARL WAITSCHIES	✓		
REP. JEANNE WINDHAM		✓	
REP. BRADY WISEMAN	✓	✓	✓
REP. ED BUTCHER, CHAIR	✓		

/s/AgricRollCallVote.2005

12 8

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **SEN. KEN HANSEN**, on March 4, 2005 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Ken (Kim) Hansen, Chairman (D)
Sen. Keith Bales (R)
Sen. John Brueggeman (R)
Sen. Lane L. Larson (D)
Sen. Frank Smith (D)
Sen. Donald J. Steinbeisser (R)

Members Excused: Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Doug Sternberg, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HJ 24, 3/1/2005; HJ 6, 3/1/2005; HB 351, 3/1/2005
Executive Action: HJ 24

00:12:30
Questions from Committee Members and Responses:

00:14:25
Closing by Sponsor:

00:15:29

HEARING ON HB 351

Opening Statement by Sponsor:

REP. EDWARD BUTCHER (R), HD 29, opened the hearing on **HB 351,** Require explanation of improvement arbitration.

Proponents' Testimony:

00:23:20 **Mr. Jay Bodner, Montana Stockgrowers Association, Montana Association of State Grazing Districts**
00:25:05 **Mr. Chris Christiaens, Montana Farmers Union**
00:26:14 **Ms. Nancy Schlepp, Montana Farm Bureau Federation**

Opponents' Testimony: None.

Informational Testimony:

00:26:55 **Mr. Kevin Chappell, Bureau Chief, Agriculture and Grazing Bureau, Department of Natural Resources**

00:28:05
Questions from Committee Members and Responses:

00:31:49
Closing by Sponsor:

00:32:26

EXECUTIVE ACTION ON HJ 24

Motion/Vote: SEN. LARSON moved that HJ 24 BE CONCURRED IN. Motion carried unanimously by voice vote.

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

AGRICULTURE, LIVESTOCK, AND IRRIGATION

DATE 3/4/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. KEN HANSEN (D), CHAIRMAN	X		
SEN. GERALD PEASE (D), VICE CHAIRMAN		X	X
SEN. KEITH BALES (R)	X		
SEN. JOHN BRUEGGEMAN (R)	X		
SEN. LANE LARSON (D)	X		
SEN. FRANK SMITH (D)	X		
SEN. COREY STAPLETON (R)			X
SEN. DONALD STEINBEISSER (R)	X		
SEN. JON TESTER (D)	X		
			X
	X		
DOUG STERNBERG, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY			

MONTANA STATE SENATE
2005 LEGISLATURE

VISITOR REGISTER

AGRICULTURE, LIVESTOCK, AND IRRIGATION

DATE _____ **BILLS BEING HEARD TODAY** HJ-24, HB351

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Peter Nelson	406-240-2746	Wilderness & Civ. Iz coalition Program	General	N/A	N/A
~~[illegible]~~	~~[illegible]~~	~~[illegible]~~			
Janet Markwood		L+C Commission	HJ-24	X	
Chris Christiaens		MFU HJ 6 +	HB351	X	
Nancy Johnson		MT Farm Bureau	HB351	X	
DAVID EWENBERGER	406 539 7733	myself	HJ 24	X	
Don Judge	455-1703	MT chapter, Sierra Club	HJ 24	X	
Stephen Lambros	Tibbs 449-2774		HJ	X	
Jay Bodner	442-3420	MT Stockgrowers	HB351	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN KEN (KIM) HANSEN**, on March 16, 2005 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Ken (Kim) Hansen, Chairman (D)
Sen. Keith Bales (R)
Sen. John Brueggeman (R)
Sen. Lane L. Larson (D)
Sen. Gerald Pease (D)
Sen. Frank Smith (D)
Sen. Corey Stapleton (R)
Sen. Donald J. Steinbeisser (R)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Doug Sternberg, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HJ 5, 3/9/2005
Executive Action: HJ 5, HB 351

00:00:03

HEARING ON HJ 5

Opening Statement by Sponsor:

REP. VERONICA SMALL-EASTMAN (D), HD 42, opened the hearing on **HJ 5,** Urge USDA to refer to beef industry as United States beef industry.

Proponents' Testimony:

00:01:21 **Mr. Steve Pilcher, Montana Stockgrowers Association**

EXHIBIT(ags58a01)

00:02:57 **Mr. Chris Christiaens, Montana Farmers Union**
00:03:35 **Ms. Pat Torgerson, Montana Women Involved in Farm Economics**

Opponents' Testimony: None.

Informational Testimony: None.

00:04:27
Questions from Committee Members and Responses:

00:05:25
Closing by Sponsor:

SEN. PEASE will carry HJ 5 on the Senate Floor.

00:06:20

EXECUTIVE ACTION ON HJ 5

Motion: SEN. PEASE moved that HJ 5 BE CONCURRED IN.

Discussion:

Vote: Motion carried unanimously by voice vote.

00:07:32

EXECUTIVE ACTION ON HB 351

Discussion:

Motion: SEN. SMITH moved that HB 351 BE CONCURRED IN.

Motion: SEN. SMITH moved that HB 351 BE AMENDED WITH HB035101.ADS.

EXHIBIT(ags58a02)

Discussion:

Vote: Motion carried 6-2 by voice vote with SEN. PEASE and SEN. STAPLETON voting no.

Motion/Vote: SEN. SMITH moved that HB 351 BE CONCURRED IN AS AMENDED. Motion carried 6-2 by voice vote with SEN. PEASE and SEN. STAPLETON voting no.

ADJOURNMENT

Adjournment: 4:00 P.M.

SEN. KEN (KIM) HANSEN, Chairman

ANNIE GLOVER, Secretary

KH/ag

Additional Exhibits:

EXHIBIT(ags58aad0.PDF)

SENATE AGRICULTURE
EXHIBIT NO. 2
DATE 3/16/05
BILL NO. HB351

Amendments to House Bill No. 351
3rd Reading Copy

Requested by Senator Jon Tester

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Doug Sternberg
March 16, 2005 (7:40am)

1. Title, line 8.
Following: "ARBITRATION;"
Insert: "REQUIRING A LESSEE TO PROVIDE A LIST OF IMPROVEMENTS AND THEIR REASONABLE VALUE PRIOR TO RENEWAL OF A LEASE AND REQUIRING THAT THE INFORMATION BE PROVIDED TO A PARTY REQUESTING TO BID ON THE LEASE;"

2. Page 1, line 14.
Following: "(1)"
Insert: "Prior to renewal of a lease, the department shall request from the lessee a listing of improvements on the land associated with the lease, including the reasonable value of the improvements. This information must be provided to any party requesting to bid on the lease."

- END -

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

AGRICULTURE, LIVESTOCK, AND IRRIGATION

DATE 3/16/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. KEN HANSEN, CHAIRMAN	X		
SEN. KEITH BALES	X		
SEN. JOHN BRUEGGEMAN	X		
SEN. LANE LARSON	X		
SEN. GERALD PEASE	X		
SEN. FRANK SMITH	X		
SEN. COREY STAPLETON	X		
SEN. DONALD STEINBEISSER	X		
SEN. JON TESTER			X
DOUG STERNBERG, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Agriculture, Livestock and Irrigation** recommend that **House Bill 351** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____
Senator Ken (Kim) Hansen, Chair

To be carried by Senator Jon Tester

And, that such amendments read:

1. Title, line 8.
Following: "ARBITRATION;"
Insert: "REQUIRING A LESSEE TO PROVIDE A LIST OF IMPROVEMENTS AND THEIR REASONABLE VALUE PRIOR TO RENEWAL OF A LEASE AND REQUIRING THAT THE INFORMATION BE PROVIDED TO A PARTY REQUESTING TO BID ON THE LEASE;"

2. Page 1, line 14.
Following: "(1)"
Insert: "Prior to renewal of a lease, the department shall request from the lessee a listing of improvements on the land associated with the lease, including the reasonable value of the improvements. This information must be provided to any party requesting to bid on the lease."

- END -

Committee Vote:
Yes 6, No 2.

581626SC.sjo

2005 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 351
INTRODUCED BY BUTCHER, TESTER, L. JONES, BARRETT, MALCOLM, STAHL, MENDENHALL, WAITSCHIES, ROSS, STOKER, LAMBERT, BRUEGGEMAN, WITT, BLACK, KLOCK, PETERSON, WARD, ROBERTS

AN ACT REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO EXPLAIN THE REQUIREMENTS OF FIXING VALUES OF IMPROVEMENTS BY ARBITRATION; REQUIRING A LESSEE TO PROVIDE A LIST OF IMPROVEMENTS AND THEIR REASONABLE VALUE PRIOR TO RENEWAL OF A LEASE AND REQUIRING THAT THE INFORMATION BE PROVIDED TO A PARTY REQUESTING TO BID ON THE LEASE; CHANGING COURT VENUE FOR CONTESTING VALUES; AMENDING SECTIONS 77-6-302 AND 77-6-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-6-302, MCA, is amended to read:

"77-6-302. Compensation for improvements -- actual costs. (1) Prior to renewal of a lease, the department shall request from the lessee a listing of improvements on the land associated with the lease, including the reasonable value of the improvements. This information must be provided to any party requesting to bid on the lease. When another person becomes the lessee of the lands, the person shall pay to the former lessee the reasonable value of the improvements. The reasonable value may not be less than the full market value of the improvements.

(2) If the former lessee is unable to produce records establishing the reasonable value or if the former lessee and the new lessee are unable to agree on the reasonable value of the improvements, the value must be ascertained and fixed as provided in 77-6-306. The former lessee shall initiate this process within 60 days of notification from the department that there is a new lessee. The department notification must include an

explanation of the requirements of 77-6-306. Failure to initiate the process within this time period results in all improvements becoming the property of the state.

(3) Upon the termination of a lease, the department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease."

Section 2. Section 77-6-306, MCA, is amended to read:

"**77-6-306. Arbitrators to fix value of improvements.** (1) If the owner of any improvements on state lands of the type authorized by law at the time they were placed on state lands desires to sell these improvements to the new lessee and they are unable to agree on the value of the improvements pursuant to 77-6-302, the value must be ascertained and fixed by three arbitrators, one of whom is appointed by the owner of the improvements, one by the new lessee, and the third by the two appointed arbitrators. If any party refuses to appoint an arbitrator within 15 days of being requested to do so by the director of the department, the director may appoint an arbitrator for that party. An arbitrator appointed by the director has the same duties and powers as if appointed by one of the parties. The value of the improvements must be ascertained and fixed pursuant to 77-6-302.

(2) The reasonable compensation that the arbitrators may fix for their services must be paid in equal shares by the owner of the improvements and the new lessee.

(3) The value of the improvements ascertained and fixed is binding on both parties. If either party is dissatisfied with the valuation, the party may within 10 days appeal from the decision to the department. The department shall examine the records pertaining to the costs of the improvements, and except as provided in subsection (4), its decision is final. The department shall charge and collect the actual cost of the reexamination to the owner and the new lessee in the proportion as, in its judgment, justice may demand.

(4) If either party is dissatisfied with the valuation fixed by the department, the party may within 30 days after receipt of the department's decision petition the district court in the county in which the majority of the state land is located ~~or the district court of Lewis and Clark County for judicial review of the decision~~ for judicial review of the decision."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

Latest Version of HB 351 *(HB0351.ENR)*

Processed for the Web on April 14, 2005 (10:59am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the status of this bill for the bill's primary sponsor.

Status of this Bill | 2005 Legislature | Leg. Branch Home

This bill in WP 5.1 | All versions of all bills (WP 5.1 format)

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Prepared by Montana Legislative Services

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